

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM LYLE NIBLE,

Plaintiff,

v.

JEFF MACOMBER, et al.,

Defendants.

Case No. 2:24-cv-01259-DJC-CSK

FINDINGS AND RECOMMENDATIONS
DENYING PLAINTIFF'S MOTION TO
PROCEED IN FORMA PAUPERIS
(ECF No. 93)

On September 8, 2025, this action was dismissed with prejudice and judgment entered. (ECF Nos. 90, 91). On September 11, 2025, Plaintiff William Lyle Nible filed a Notice of Appeal and a motion to proceed in forma pauperis ("IFP"). (ECF Nos. 92, 93). Plaintiff's Notice of Appeal was processed to the United States Court of Appeals of the Ninth Circuit as Case No. 25-5800. (ECF No. 96). On September 12, 2025, the district judge referred this matter to the undersigned for the limited purpose of determining whether in forma pauperis status should be granted for the appeal. See 9/12/2025 Order (ECF No. 95). For the reasons that follow, the Court recommends Plaintiff's IFP motion be DENIED.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3)(A). Good faith on appeal is demonstrated by an objective standard of a nonfrivolous issue.

1 *Coppedge v. U.S.* 369 U.S. 438, 445 (1962). An issue is “frivolous” where it “lacks an
2 arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A
3 “good faith” appeal must seek review of at least one “non-frivolous” issue or claim.
4 *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

5 Plaintiff’s Notice of Appeal indicates that Plaintiff is seeking to appeal the final
6 judgment entered on September 8, 2025. (ECF No. 92.) However, it does not identify the
7 issues Plaintiff seeks to present on appeal as required pursuant to Federal Rule of
8 Appellate Procedure 24(a)(1)(C). Therefore, the Court cannot determine whether the
9 issues are nonfrivolous. Accordingly, Plaintiff’s motion should be denied for failure to
10 establish his appeal is nonfrivolous under Rule 24. See *Austin v. Kemper Corp. (Ins.)*,
11 2022 WL 2276894, at *1 (N.D. Cal. June 23, 2022) (denying plaintiff’s motion to proceed
12 IFP on appeal for failure to comply with Fed. R. App. P. 24(a)(1)(C) because plaintiff did
13 not identify the arguments he intended to present on appeal). In addition, for the reasons
14 stated in the July 3, 2025 findings and recommendations (ECF No. 83), adopted by the
15 district judge on September 8, 2025 (ECF No. 90), the Court finds that the instant appeal
16 is frivolous. Because Plaintiff failed to identify his basis for his appeal, and the July 3,
17 2025 findings and recommendations were based upon established legal authorities, the
18 Court finds that Plaintiff’s appeal is frivolous and not taken in good faith. Accordingly, the
19 Court recommends Plaintiff’s IFP motion be denied.

20 Based upon the findings above, it is RECOMMENDED:

- 21 1. Plaintiff’s motion to proceed in forma pauperis (ECF No. 93) be DENIED;
22 and
23 2. The Clerk of Court be directed to serve a copy of the final order on
24 Plaintiff’s motion on Plaintiff and on the Ninth Circuit Court of Appeals.

25 These findings and recommendations are submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
27 14 days after being served with these findings and recommendations, any party may file
28 written objections with the Court and serve a copy on all parties. This document should

1 be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any
2 reply to the objections shall be served on all parties and filed with the Court within 14
3 days after service of the objections. Failure to file objections within the specified time
4 may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449,
5 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

6

7 Dated: September 22, 2025

8

9

10 4, nibl1259.24

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE